**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****123****RSA-2301-2022 (O&M)****Date of decision: 14.01.2026****Victor Singh and another****...Appellant(s)****Vs.****Avtar Singh and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

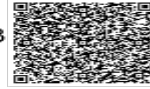
Present:- Mr. S.S.Rangi, Senior Advocate with  
Mr. Didar Singh, Advocate for the appellants.

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**NIDHI GUPTA, J.**

Plaintiffs, who are sons of defendant No.2, are in Second Appeal against the concurrent judgments and decrees of the learned Court below; whereby suit filed by the appellants for declaration and permanent injunction, has been dismissed by both the Courts below.

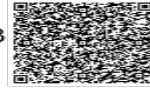
2. It was the pleaded case of the appellants in the plaint that the suit property was originally owned by their great grandfather, namely, Dasaundi. After his death, it was inherited by his son Hazara Singh who was father of defendant No.2 and grandfather of present appellants. Suit property thereafter came to the share of defendant No.2 Nachattar Singh. Thus, plaintiffs alongwith defendants No. 2 to 4 constitute Joint Hindu Coparcenary governed by Mitakshara School. However, defendant No.2-Karta of the family had sold the suit property to defendant No.1 without consent of the plaintiffs and perforce defendants, and without legal



necessity. Accordingly, a decree was sought that the said sale be declared null and void. With these pleadings, present suit was filed on 09.01.2017.

3. Upon appraisal of the evidence led by the parties, the Civil Judge (Junior Division), Kharar had dismissed the suit of the plaintiffs vide judgment and decree dated 11.09.2018. The Civil Appeal filed by the appellants was dismissed by the learned Additional District Judge, SAS Nagar, Mohali vide judgment and decree dated 10.03.2022. Hence, present Second Appeal by the plaintiffs.

4. It is *inter alia* submitted by learned Senior Counsel for the appellants that the appellants had duly established on record that the suit property had devolved upon defendant No.2 through inheritance. Plaintiffs had duly proved the 4 lineal male descendants of inheritance. Plaintiffs had duly produced oral as well as documentary evidence in the form of Jamabandi for the year 2013-2014, to prove their case. The plaintiffs had also examined PW2 Bhupinder Singh, Special Kanungo, D.C. Office, Mohali who had deposed that he has prepared the Excerpt Report running into 56 pages of the suit property and had also proved the same as Ex.PW2/A. As such, the suit property being ancestral in nature, defendant No.2 could not have executed Sale Deed in favour of defendant No.1. It is accordingly prayed that the present Second Appeal be allowed; and the impugned judgments and decrees of the Courts below be set aside.



5. No other argument is raised by Id. counsel for the appellants.

I have heard learned counsel and perused the case filed in detail. I find no merit in the submissions advanced on behalf of the appellants.

6. Vide the impugned Sale Deed dated 15.09.2016 Ex.D2 Nachattar Singh had only sold land measuring 4 bighas to the defendant No.1. Whereas it is established fact on record that upon the death of Dasaundi on 21.05.1960 Hazara Singh father of Nachatar Singh had got 3 bighas 15 biswa land vide Mutation No. 1825. It is also admitted fact on record that further 3 bighas 15 biswa came to Hazara Singh through Decree dated 30.03.1982 in respect of which mutation No. 2189 was sanctioned. This fact also finds mention in the Excerpt Report produced by PW2 Special Kanungo at page No. 32 of the Report Ex.PW2/A. It is also admitted fact on record that share of Mehar Singh being issueless brother of Hazara Singh had also come to Hazara Singh. From the above facts, it is clear that only 3 bighas 15 biswas land was received by Hazara Singh from his father Dasaundi. It has also been proved on record that Nachattar Singh had received the said land through his father Hazara Singh by way of Will as proved from mutation No. 2533 Ex.D1. This fact has also been admitted by PW2 in his cross-examination. Needless to say, property which devolves through Will is not ancestral property.

7. Furthermore, the remaining land which was received by Hazara Singh from his sister and brother, will not be ancestral in nature. A perusal of Sale Deed dated 15.09.2016 Ex.D2 shows that the suit property was transferred by defendant No.2 to defendant No.1 on the basis of



Decree dated 30.03.1982 in respect of which mutation No. 2189 was sanctioned. Accordingly, the appellants have failed to prove that the suit property was coparcenary in nature. As such, Nachatar Singh was competent to execute the impugned Sale deed.

8. Relevant findings of the learned Trial Court as contained in para 12 of the judgment dated 11.09.2018 read as follows:-

*“12. The onus was on plaintiffs to prove the ancestral nature of property. Plaintiffs have relied upon Ex.PW2/A excerpts to prove their case. From the documents filed with exhibit, it is clear that Dasaundi was the owner of the suit property. Dasaundi died on 21.05.1960 and thereupon his property Vide mutation No. 1825 was devolved through succession upon his sons and daughters, who are five in number namely Norati, Tej Kaur and sons Basta, Mehar Singh and Hazara Singh.*

*Hazara Singh father of defendant No.2 got 03 bigha 15 biswe from the said mutation from his father. Further, as per Ex. PW2/A, at Page No.32, vide mutation No.2189, Hazara Singh got another 03 bigha 15 Biswe from his sister through a decree 30.03.1982. This share obtained from his sister through a decree cannot be said to be ancestral property. PW2 has admitted in his cross-examination that the share of Mehar Singh also went to Hazara Singh. This is inheritance from a brother and it also cannot be said to be ancestral property.*

*Thus the property of Hazara Singh inherited from his siblings cannot be said to be ancestral. It is the property that is inherited from his father, i.e., vide mutation No. 1825 is ancestral. This is only 03 bigha 15 biswe, remaining property of Hazara Singh has been acquired by him from his siblings.*

*PW1 has also admitted in his cross-examination that property from Tej Kaur, Basta Singh, Norati and from Mehar Singh was acquired by Hazara Singh.*

*Thus, there is no dispute regarding the fact that suit property was inherited from siblings.”*

9.            Learned counsel for the appellants is unable to dispute or controvert the above said facts and findings.
10.           In view of the above, no ground is made out to interfere in the concurrent judgments and decrees of the learned Courts below. The present Regular Second Appeal is hereby **dismissed**.
11.           Pending applications, if any, stand disposed of.

14.01.2026

Divyanshi

Whether speaking/reasoned:

Whether reportable:

Yes/No

Yes/No

(NIDHI GUPTA)

JUDGE